

## REMARKS

Claims 1-16 are pending and under consideration. Reconsideration is requested.

### Objection to Title

In item 4 of the Office Action, the Examiner asserts that the title of the invention is not descriptive and suggests a new title is required.

Applicants submit that the current title is descriptive and indicative of the invention to which the claims are directed and request the objection be withdrawn.

### Rejection of claims 6 and 15 under 35 U.S.C. §112, second paragraph

In item 7 of the Office Action, the Examiner rejects claims 6 and 15 under 35 U.S.C. §112, second paragraph, as being incomplete. The rejection is traversed.

The Examiner asserts:

The omitted steps are: what method steps, if any, are performed when the determination is confirmed to be incorrect (claims 6 and 15) and what steps, if any, are performed if the first determined if the predetermined reply option and the free reply are not substantially the same. . . . claim 15 would read as follows when the determining is incorrect (i.e. the free reply and predetermined reply option are not substantially the same). A polling method according to claim 5, further comprising confirming, performed by the processing server if the first said determining determines that the said free reply input by the first respondent and said predetermined reply option are substantially the same *<method steps end when it is determined that they are not the same>*.

Applicants submits that claim 15, for example, recites a polling method according to claim 5, further comprising confirming performed by the processing server of if said first determining determines that said free reply input by said first respondent and said predetermined reply option are substantially the same, accepting from said first respondent confirmation as to whether the determination is correct; wherein said compiling is carried out if said determination is confirmed to be correct. Claim 6 has a similar recitation.

Applicants submit that the Examiner's assertion is unnecessarily limiting. Dependent claim 15 recites an accepting condition and "compiling is carried out if said determination is confirmed to be correct."

As set forth in MPEP 2172.01 Unclaimed Essential Matter "A claim which omits matter disclosed to be essential to the invention as described in the specification or in other statements of record may be rejected under 35 U.S.C. 112, first paragraph, as not enabling . . . Such essential matter may include missing elements, steps or necessary structural cooperative relationships of elements described by the applicant(s) as necessary to practice the invention.

Applicants submit that one of ordinary skill in the art is able to practice the subject invention in view of claims 6 and 15 and, for example, to include "compiling is carried out if said determination is confirmed to be correct."

Applicants submit that claims 6 and 15 comply with 35 U.S.C. §112, second paragraph, and the rejection should be withdrawn.

**Rejection of claim 9 under 35 U.S.C. 112, second paragraph**

In item 8 of the Office Action, the Examiner rejects claim 9 under 35 U.S.C. §112, second paragraph, as being indefinite asserting claim 9 recites the limitation "said iterating terminated" in claim 1 or claim 2. There is insufficient antecedent basis for this limitation."

Applicants respectfully submit that as last amended in the Amendment filed June 13, 2008, claim 9 recites "iterating by repeating said first questioning, said obtaining a free reply and said first storing; and controlling which said iterating terminated . . . ." The term "iterating" was not deleted (by strikethrough) or amendment.

Thus, Applicants submit that claim 9 complies with 35 U.S.C. 112, second paragraph and the rejection should be withdrawn.

**Rejection of claims 1-16 under §§102(e)/103(a)**

In item 10 of the Office Action, the Examiner rejects independent claims 1, 10-12 and 16 (and dependent claims 4-5, 7-9, and 14 under 35 U.S.C. §102(e) as being anticipated by Mizrahi et al., U.S. Patent Publication No. 2006/0155513. ("Mizrahi").

In item 12 of the Office Action, the Examiner rejects independent claim 13 and dependent claims 6 and 15 under 35 U.S.C. 103(a) as being unpatentable over Mizrahi in view of official notice.

The rejections are traversed.

Applicants submit that the subject application has a foreign priority date of September 11, 2002 based on Japanese Patent Application 002-265672

By contrast, Mizrahi has later 102(e) date of November 7, 2002 based on a PCT 371(c) date of November 6, 2003 and claiming priority from provisional application of November 7, 2002.

Thus, Mizrahi is unavailable as a reference upon perfection of the current subject application priority date.

Thus, Applicants respectfully submit that the §§102/103 rejections be withdrawn.

\* \*

In addition, the Action concedes that Mizrahi does not teach accepting the first respondent confirmation as to whether or not the determination is correct and wherein the determining is correct carrying out the compiling as claimed. The Examiner asserts:

Official notice is taken confirming that a respondents (user) answer is correct is old and well known. It would have been obvious to one skilled in the art at the time of the invention that the polling system and method as taught by Mizrahi et al. would have benefited from confirming a respondents responses in view of the teachings of official notice, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

However, Applicants submit that the Examiner's interpretation is in error.

Claim 6, for example, recites a polling method including "confirming performed by the processing server upon said first determining having determined that said free reply input by said first respondent and said predetermined reply option are substantially the same, accepting from said first respondent confirmation as to whether or not the determination is correct; wherein said compiling is carried out if said determination is confirmed to be correct."

That is, claim 6 does not recite "confirming that a respondents (user) answer is correct," as the Examiner asserts in taking of the official notice.

Rather, claim 6 recites a confirming by a respondent as to whether a free reply input by the respondent and a predetermined reply are substantially the same is a correct determination.

Thus, Applicants submit that further a rejection finding *prima facie* obviousness would be in error.

### **Conclusion**

Thus, the §§102(e)/103(a) rejections should be withdrawn and claims 1-16 allowed.

### **Conclusion**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

Serial No. 10/646,890

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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